



ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MASSACHUSETTS 01545-5398

March 1, 2005

PUBLIC HEARING: Better Builders and Contracting Company, Inc., 342 Oak Street,
Shrewsbury, MA

PURPOSE: To hear the appeal of Better Builders and Contracting Company, Inc., 39A
Hartford Tpke., Shrewsbury, MA, for a special permit as required by the
Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the
occupancy of a proposed addition to be constructed upon property located
at 342 Oak Street as an in-law apartment. The subject premises is
described on the Shrewsbury Assessor's Tax Plate 39 as Plot 259.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon,
Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the
Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Please identify yourself for the record and make your presentation.

Mr. Gremo: Good evening, my name is Ralph Gremo, one of the owners of Better
Builders Contracting Company in Shrewsbury, MA.

Mr. Wezniak: I am Dan Wezniak from Silver Street Architects in Northboro.

Mr. Rosen: Excuse me Mr. Chairman, I have to recuse myself from this hearing. I'm
Dan's accountant.

Mr. Salerno: Okay.

Mr. Rosen: I didn't know that he was coming tonight.

Mr. Salerno: Mr. Rosen, rather than having even have the appearance of a conflict, is
recusing himself from voting on the matter. That reduces the board down to four
members. Because you weren't given an ample opportunity to know that, the decision
now would have to be unanimous for you to prevail. You have the option, because
you're just learning of this reduced board, to either accept this quorum or come back at
another date.

Mr. Gremo: We will accept it.

Mr. Salerno: All right. You want to go forward knowing what the burden is and what the votes necessary would be, great. All right gentlemen, thank you so much. Let's see what you've got.

Mr. Gremo: What the occupants of the house want to do is add on to the back of their house.

Mr. Salerno: Do you just want to keep your voice up sir.

Mr. Gremo: Sure. What we want to do is put an in in-law apartment at 342 Oak Street.

Mr. Gordon: Can you put it on that board so that they can see it as well as us.

Mr. Gremo: I submitted drawings before. We have a little change in the drawings. I don't know if you want this, but it's just a small change in the entryway into it. I don't know if you want it?

Mr. Salerno: Is it different that what you submitted?

Mr. Gremo: Yes.

Mr. Gordon: It's a special permit.

Mr. Gremo: I'll just let you know that, if you want, I have the drawings there for you.

Mr. George: If you want, you can pass them to Mr. Gordon.

(Mr. Gremo presented the plans to the board.)

Mr. Salerno: We can only vote on what's before us so you probably want to be real clear on what that is.

Mr. Wezniak: The change that was made to the drawings from what was originally submitted was based on site conditions. In order to keep the addition away from the rear of the house and to avoid obstruction of the existing bedroom windows that are located in the corner, we had to change the plan a little. So, the plan that was originally submitted does not have this entry way that pushes the house back 6 ft. from the base of the house to avoid the conflicts with the windows.

The other change that was made to the addition was that it is now 2 ft. smaller in width from what was originally submitted. That's the revision that you have there.

Mr. Wezniak: So, this is actually reflective of what we're submitting tonight.

Mr. Gordon: Ron, the reduction is no problem, is the 6 ft. a problem on a special permit?

Mr. Alarie: I'm sorry, I was out of the room and missed the part about the change to their plan. They're bringing it inside the lot more?

Mr. Gordon: Is it inside or outside of the house?

Mr. Wezniak: It's outside. This piece here slides back 6 ft. towards the rear in order to maintain the egress.

Mr. Alarie: But, they're still connected?

Mr. Wezniak: They're still connected.

The core of the addition is designed because the mother has Parkinson's disease. They want to have the mother live at the house so that her daughter can take care of her. In order to do that, what we did is provided an open living space with a kitchen, a sitting room and two bedrooms in the back with a bathroom and created an accessible way to get into the house from the side. It has its own separate entrance and also a door from the existing living space into the addition.

Mr. Salerno: The clients are aware of the restrictions on the in-law apartment?

Mr. Gremo: I'm not sure.

Mr. Gordon: That the deed will be restricted?

Mr. Alarie: I did explain it to them. They know that it's limited in occupancy to individuals related to them.

Mr. Gordon: Members of the family?

Mr. Alarie: Yes.

Mr. Salerno: By blood or marriage?

Mr. Gremo: Yes.

Mr. Salerno: It has to be that type of relationship. It's not going to be something that's for rent.

Mr. Gordon: You can't rent to outsiders.

Mr. Gremo: Right.

Mr. Salerno: It's not for commercial use.

Do any board members have questions? Mr. Gordon, go ahead.

Mr. Gordon: Is this going to have a foundation underneath it?

Mr. Wezniak: Yes, it is.

Mr. Gordon: So, there will be an addition to the cellar?

Mr. Wezniak: It's going to be a crawl space.

Mr. Gordon: A crawl space?

Mr. Wezniak: Yes. There's going to be access from the outside.

Mr. Gordon: But, it's not going to be a full cellar?

Mr. Wezniak: No.

Mr. Gremo: Just a half wall, 4 ft.

Mr. Gordon: Okay. How far out does the porch go right now?

Mr. Wezniak: The existing one off of the back of the house?

Mr. Gordon: Yes.

Mr. Wezniak: It's roughly 16 ft.

Mr. Gordon: I thought that it was roughly 20 ft. So, basically, this is just a little more?

Mr. Wezniak: Right. The existing deck is probably out to here and then it's got a staircase down to ground level.

Mr. Gordon: It's a large enough lot. I'm fine.

Mr. Salerno: Is there anyone in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 1, 2005, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Better Builders and Contracting Company, Inc., 39A Hartford Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a proposed addition to be constructed upon property located at 342 Oak Street as an in-law apartment.

The appellant, on behalf of the owners of the subject premises, proposes to construct a 24 ft. by 42 ft. addition to the rear of Ms. Basil's home that will be occupied by her parents. The in-law apartment will contain a kitchen, sitting room and 2 bedrooms. The board reviewed the configuration of the property, the existing dwelling as well as the

proposed addition and its intended occupancy and found this arrangement to be in harmony with the intent of the Zoning Bylaw in permitting such accessory living accommodations within or attached to a single family home. It was their opinion that the construction and occupancy of the apartment would not create any condition which would adversely impact the welfare of area residents or depart from the general character of this neighborhood. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Rodolakis | Yes |

PUBLIC HEARING: Gail Viggiano Stamoulis, 26 Coachman Ridge Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Gail Viggiano Stamoulis, P. O. Box 448 Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the basement of the single family dwelling situated upon property located at 26 Coachman Ridge Road as an in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 2 as Plot 7-77.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Ronald I Rosen, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Please identify yourself for the record and make your presentation.

Ms. Viggiano-Stamoulis: Gail Viggiano-Stamoulis, owner

Mr. Stamoulis: Todd Stamoulis, owner as well.

Mr. Salerno: I'm sorry, the last name sir?

Mr. Stamoulis: Stamoulis.

Mr. Salerno: Stamoulis, thank you sir.

Ms. Viggiano-Stamoulis: Basically, we wanted to use a portion of the basement for my mother. My father passed away about a year and a half ago and I would like my mom to be able to stay with us. I'm an only child. It would be just for her, a relative, a blood

relation. I would never rent the space out. I believe that the drawings were attached with the application as well.

Mr. Gordon: This is going to be enclosed? The house is being built right now. Is that correct?

Ms. Viggiano-Stamoulis: It is.

Mr. Gordon: Okay. This is going to be in the basement? There is going to be no exterior notice?

Ms. Viggiano-Stamoulis: No. It's a walk-out basement.

Mr. Gordon: It's a walk-out basement in back there?

Ms. Viggiano-Stamoulis: Yes.

Mr. Gordon: Okay.

Mr. Salerno: There's no separate entrance?

Mr. Gordon: No? Well, there'll be a separate entrance outside if there's a walk-out entrance?

Ms. Viggiano-Stamoulis: There's a walk-out to the back.

Mr. Salerno: Yes, but is that going to be separate?

Ms. Viggiano-Stamoulis: No. It's attached to the house.

Mr. Salerno: No? Is that going to be like a private entrance for the in-law apartment, that entrance into the basement, or is it going to be a common entrance used by you folks?

Ms. Viggiano-Stamoulis: It's a common entrance used for us and the in-law apartment.

Mr. Stamoulis: There's also an entrance from the garage as well.

Mr. Salerno: Into the basement?

Mr. Stamoulis: Yes.

Mr. Gordon: So, this will have a bedroom or two bedrooms?

Ms. Viggiano-Stamoulis: Just one bedroom.

Mr. Gordon: And a bathroom?

Ms. Viggiano-Stamoulis: A bathroom

Mr. Gordon: And a kitchen area?

Ms. Viggiano-Stamoulis: And a kitchen area or kitchenette.

Mr. Gordon: The house is not going to be green in the end, is it?

Ms. Viggiano-Stamoulis: It's green?

Mr. Gordon: Well, that's what's on the outside now.

Mr. Stamoulis: It's going to be a shade of green.

Mr. Gordon: But, not that shade? The board that they're using that's going to go below is green also?

Mr. Stamoulis: Yes.

Mr. Salerno: You didn't file a floor plan of how it's going to be cut up.

Ms. Viggiano-Stamoulis: I believe that when we brought the application in, they said that it wasn't necessary to show exactly where the kitchen was going to be.

Mr. Alarie: I think, recently, the builder came in and presented a plan that showed somewhat the location of the in-law apartment. I don't recall anything else being filed other than the tax map and the plot plans.

Ms. Viggiano-Stamoulis: Right.

Mr. Salerno: So, there is no record other than that then?

Mr. Alarie: If you look at the tax maps, it's the area to the rear of the foundation, perhaps half of the house that runs from that bump-out to the other bump-out. That is where the apartment would be located.

Mr. Salerno: You saw some plans to that effect?

Mr. Alarie: I did see a preliminary floor plan. It was my understanding that they would be presented to the board tonight.

Mr. Salerno: Okay. Do any board members have questions? Steve?

Mr. Rodolakis: I'm all set.

Mr. Salerno: Is there anyone in attendance who would like to comment on this petition? Sir, would you identify yourself for the record and address your comment.

Mr. Anand: My name is Charanjit Anand. My last name is spelled Anand. I live at 5 Cobblestone Way in Shrewsbury. I live directly behind this house that's being built. Right now the way the house sits it's at a considerably higher elevation than my house. There's a real privacy issue from the back yard. My concern is that an in-law apartment would intrude on my privacy further because there are people who are going to be living in the basement and can look directly into my house.

Mr. Salerno: Yes.

Ms. Viggiano-Stamoulis: The plans are that we are going to be fencing in our whole yard because I have a 2-year old child. I'm a little bit worried about him being able to go over the back yard anyhow. It would just be my mother. She's going to be entering and exiting from the garage, not from the backyard.

Mr. Salerno: If I understand, sir, it's just the fact that it's going to be used for living quarters as opposed to a traditional basement and, therefore, there will be somebody there more often than not?

Mr. Anand: Exactly.

Mr. Salerno: Again, if there was no in-law apartment there, there are no restrictions on the use of that facility.

Mr. Anand: That's fine. I'm not bringing that up, although it does intrude on my privacy. There is nothing I can do because that's according to the town bylaws.

Mr. Salerno: Sure. They could spend more time in the basement than on any other floor. You would have the same issue of privacy and they would not be asking for their request.

Mr. Anand: But, when there's an apartment, somebody's living there during the day as well as the night.

Mr. Salerno: Correct.

Mr. Anand: The way the house is set, it just looks directly into my house.

Ms. Viggiano-Stamoulis: But there's also a good amount of back yard. There's got to be at least 10 ft. of backyard before you even get to that and then we're going to be putting a fence around for my son so that he doesn't pitch over the edge when he's playing in the backyard.

Mr. Salerno: Well, I guess to address your concerns, sir, as a neighbor, because again, if there's no outward change to the property, if for all purposes it were to appear just as it would be if there were no in-law apartment, one of the questions we had, if you noticed earlier, is what are they going to use to enter it and if it's going to be through the garage and there's a walk-out, it's not going to be any different than a walk-out that any basement would have. The reason that I asked that question is so that it doesn't have the appearance of an apartment for you or for anybody else. If there's a fence, can we ask

you folks, do you know what type of fence? Is it going to be stockade; is it going to be cyclone fencing?

Ms. Viggiano-Stamoulis: We really haven't gotten that far yet. We wanted to price a few things out to see what would be the best. We're thinking of iron only because that's what our neighbor Tony has. So, maybe we could just connect with his and go all the way around.

Mr. Salerno: It's like a wrought iron?

Ms. Viggiano-Stamoulis: Wrought iron, right.

Mr. Salerno: Have you given any thought to putting any green trees or plantings there?

Ms. Viggiano-Stamoulis: Oh, absolutely, because privacy is an issue for us too. We want to preserve it for us too when we're in our backyard so that the neighbors aren't looking in.

Mr. Salerno: So, this gentleman would not be able to see this area?

Mr. Anand: The way that the elevation sits right now, anything that they put would have to be a minimum of 8 to 10 ft. There's a considerable elevation difference between their house and my house. I built the house five years ago. We put 8 ft. trees there. They are probably between 10 and 12 ft. right now. They don't do a thing.

Mr. Stamoulis: I think the same problem would arise if we're just outside on the deck and we're looking down on them. That's just the way that the plot is situated. There's nothing that you can do about it. If I'm out on my deck, they have the same visibility looking at me when I'm out on my deck.

Mr. Salerno: I think his concern is that it's going to have more use as an in-law apartment than a basement and therefore a greater frequency of issues of seeing each other.

Mr. Stamoulis: The houses must be about 200 ft. apart.

Mr. Salerno: I understand the concerns. We're sensitive to everyone's privacy issues because you're asking us to vary from the law for your benefit. The neighbor seems to be saying that it's fine and he doesn't have an objection to that as long as it doesn't increase problems with the use of his property. So, we always try to balance those two concerning issues. This is unique in the sense that, no matter what you use your basement for, this gentleman is still going to have that same issue. So, perhaps maybe some tree planting and some fencing will help alleviate some of that problem.

Mr. Stamoulis: But is the 8 ft. still not enough? You said you put trees up so you can get something higher?

Mr. Anand: I'm not sure. I haven't gone there and measured anything, but it appears to me that probably even an 8 ft. tree may not.

Mr. Stamoulis: It won't do anything?

Mr. Anand: It may not. I'm not 100 % sure. I would have to look at it.

Mr. Salerno: It may not this year, but maybe in two years. Maybe that's something that we can discuss. If we were to grant this, there might be a request that you just plant some white pines or something back there that will serve both of your privacy issues. You'd be happy with that sir?

Mr. Anand: Yes. I think as long as the privacy issues are addressed.

Mr. Salerno: As much as they can under the law, we'll try to accommodate your concerns, certainly. Thank you for coming and voicing your concerns.

Is there anybody else? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 1, 2005, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Gail Viggiano Stamoulis, P. O. Box 448 Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the basement of the single family dwelling situated upon property located at 26 Coachman Ridge Road as an in-law apartment.

The board reviewed the appellant's proposal to occupy an area of the basement of the single family home currently under construction upon the subject property as an in-law apartment that will be occupied by her mother and found that both the arrangement of the apartment and its use were in harmony with the intent of the Zoning Bylaw in permitting such accessory living accommodations within a single family dwelling. They noted that the rear of the basement level is of walk-out configuration thereby providing a readily adaptable and suitable location for a finished basement and the in-law apartment. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Rosen | Yes |
| Mr. Rodolakis | Yes |

PUBLIC HEARING: Michael D. Moroney, 633 Main Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Michael D. Moroney, 713 Boston Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal of part of the single family dwelling situated upon property located at 633 Main Street and its replacement with a new addition maintaining the existing setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 22 as Plot 52.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Ronald I Rosen, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Please identify yourself for the record and make your presentation.

Mr. Gordon: You might want to turn that at a better angle so that they can see some of it. I'd like to see it too. Perfect.

Mr. Moroney: Good evening. My name is Michael Moroney. I've recently purchased the property at 633 Main St. By way of background, I'm a structural engineer.

The reason for my request is that the back portion of this building has no foundation. Insects, termites, moisture or whatever has caused the columns in the post and beam framing to deteriorate. The building is settling in the back. Also, the roof in the barn has been deteriorating because of the insects.

I would like to remove the two areas that have no foundation and put up a garage with a correct foundation. I'm seeking permission to not hold the same nonconforming line, which goes along the wall at Gates Road, but to move that line in 4 ft. away from the street. That way it will improve the setback, at least from the street.

Mr. Salerno: Perhaps you can make reference to your diagram while you're you are describing what you would like to do.

Mr. Moroney: The blue in the diagram is the existing structure. The red is what I would like to have after I demolish the two sections. The new building will be 26 X 36 ft. It will actually be situated in such a way that the setbacks on all three sides would be improved. I intend to demolish 836 sq. ft. of building and construct 936 sq. ft. with the new garage.

One additional consideration is that there's a very large tree here that I'd like to preserve. So, I'm going to pull that line away from the tree. I'm afraid that if I start excavating to put the foundation in it will probably damage the roots of the tree and I might loose it.

Mr. Salerno: Do you have any proposed drawings or sketches of what you're going to replace it with, what the design of it would be? Can you tell us something about that?

Mr. Moroney: It's going to be a 2-car garage with a room at the end, maybe a woodworking shop.

Mr. Gordon: One room?

Mr. Moroney: Yes, sir.

Mr. Gordon: Is there going to be a foundation under it this time or just a crawl space, a full foundation?

Mr. Moroney: Just a 4 ft. foundation.

Mr. George: How will that be tied into the main part of the house?

Mr. Moroney: The other part of the house actually has a crawl space under it. It has a reasonable field stone foundation. This was built, I guess, later. The third addition, for some reason, has no foundation.

Mr. George: So, this will be tied into the foundation of the main part of the house?

Mr. Moroney: Yes.

Mr. Gordon: Does the main foundation have a mud floor?

Mr. Moroney: Yes, it does.

Mr. Gordon: This will have a cement floor?

Mr. Moroney: Yes.

Mr. Salerno: Do any board members have questions? Is there anyone in attendance who would like to comment on this petition? Yes ma'am. Would you just identify yourself for the audio record? You don't have to stand.

Ms. Coghlin: Yes, Maureen Coghlin, Gates Road. This is just a regular garage for your cars?

Mr. Moroney: Yes.

Ms. Coghlin: You said that you're going to have a room in their too.

Mr. Moroney: Like a work shop.

Ms. Coghlin: It's just for you?

Mr. Moroney: Just for me.

Ms. Coghlin: It's not for a business or anything?

Mr. Moroney: No.

Ms. Coghlin: Now, would the garage be attached to the house like what we call the barn that you're going to take down?

Mr. Moroney: Yes.

Ms. Coghlin: So, it would be attached to the house?

Mr. Moroney: Yes.

Ms. Coghlin: So, it's like 100 ft. bigger than what it is now?

Mr. Moroney: Yes.

Mr. Salerno: Square feet?

Ms. Coghlin: Square feet, yes, but there's no business going in there? You're sure?

Mr. Moroney: No business in there.

Mr. Salerno: We know your concern. When you use the phrase "room," sir, you're talking, I think you said, like a woodworking shop at the back half of the garage?

Mr. Moroney: Yes. Actually, it's 36 ft. wide so there would be two 12 ft. stalls for the cars and a 12 ft. wide shop.

Mr. Salerno: Right, which won't be visible from the outside? I mean, it's just something on the inside?

Mr. Moroney: Yes, except for the cars.

Mr. Salerno: A work shop with work benches and things like that?

Mr. Moroney: Yes.

Ms. Coghlin: Where would this room be, on the side near Gates Road or on the other side?

Mr. Moroney: Yes, it would have to be on the Gates Road side.

Ms. Coghlin: On the Gates Road side, but it would be all enclosed so that you would think it was a garage?

Mr. Moroney: Yes.

Mr. Salerno: Does that address your concerns? Okay. Is there anyone else in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 1, 2005, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Michael D. Moroney, 713 Boston Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal of part of the single family dwelling situated upon property located at 633 Main Street and its replacement with a new addition maintaining the existing setbacks of said property.

The appellant recently purchased the subject property, which is located on the corner of Gates Road and Main Street, and proposes to remove approximately 800 sq. ft. of the northerly portion of the single family dwelling situated thereon. The majority of this structure has a nonconforming front yard setback of 22 ft. along its Gates Road frontage. The portion of the structure to be removed consists of living area and an attached garage/barn, both of which are very old and deteriorated due to the lack of an adequate foundation. In their place, Mr. Moroney plans to construct a new 26 ft. by 36 ft. attached garage which would also contain a workshop/storage area. The addition would be positioned 26 ft. from the easterly sideline of Gates Road.

The board concluded, upon review of this appeal, that the re-construction and the re-positioning of part of the aforementioned residence would lessen its nonconforming features and that the proposed changes would not adversely impact the welfare of area residents. Further, they found that the renovated structure would compliment the general character of other homes along this vicinity of Main Street and within the Gates Road neighborhood and, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Rosen | Yes |
| Mr. Rodolakis | Yes |

PUBLIC HEARING: Paul Venti, 18 Ek Court, Shrewsbury, MA.

PURPOSE: To hear the appeal of Paul Venti, 18 Ek Court, Shrewsbury, MA, for special permits as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and Section VI, Table I, to allow the removal of the single family dwelling situated upon property located at 18 Ek Court and its replacement with a new single family home, including an in-law apartment therein, maintaining the existing setbacks of said property. The

subject premises is described on the Shrewsbury Assessor's Tax Plate 57 as Plot 132.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Gentlemen, would you identify yourselves for the record and make your presentation.

Mr. Quinn: Mr. Chairman, my name is Kevin Quinn. I'm with Quinn Engineering. I'm here on behalf of Paul Venti. Paul Venti is with me tonight. He's the owner and the appellant for this application.

Mr. Venti proposes to demolish the existing home on this property and construct a new home on the same property with an in-law apartment. Just by way of background, Mr. Venti had looked at remodeling the existing home to try to see if he could try to construct an in-law apartment in the existing home. It's not possible to do that. So, the reason for building a new building is ultimately so that he can have an in-law apartment for his mother to dwell in within the house. Also, he's not doing this by some way of developmental or monetary purposes because he basically needs to accommodate his mother within the house.

The special permit application has basically three elements that are in the application. First of all, the existing property has an area of 11,686 sq. ft. Current zoning requirements require 12,500 square feet. It's a pre-existing nonconforming lot. We would ask the board to consider that in the application for the special permit.

Secondly, the site is located on the corner of Salisbury Street and Ek Court. As such, it is not possible for this building to be located on this site and fully accommodate the front yard setbacks from both streets. Normally, under current zoning, we should accommodate front yard setbacks on Salisbury Street and on Ek Court. This site cannot accommodate this building and do that. However, the existing building has a front yard setback on Ek Court of approximately 11 ft. The proposed building has a setback of 17.176 ft. So, the intrusion into the front yard setback is reduced under the proposed plan. I think it would be fair to say that the shape of this lot, if it were a more geometric shape, might be more conducive to our being able to accommodate a front yard setback. Because of the unusual shape or the triangular shape, it is impossible for us to be able to accommodate that front yard setback.

Finally, as basis of the application, part of the application is that Mr. Venti would like to have his mother live in this building in an in-law apartment. He asks for that mainly because her care is such that she needs to be, I guess, living with him under a continued care situation.

Can I answer questions of the board?

Mr. Gordon: The right-of-way, how wide is that? It's not a 50 ft. right-of-way?

Mr. Quinn: It is not a 50 ft. right-of-way. It is very narrow.

Mr. Gordon: It's probably about a 15 ft., Ron? No, it's not even 15 ft.

Mr. Quinn: I could put a scale to it.

Mr. Gordon: I think it's about 10 ft. You'd get one car down there. I was confused so I drove down to number 17, which is on the water. Two of us couldn't go by each other.

Mr. Quinn: On a scale, it's about 12 ft.

Mr. Gordon: Is there going to be a separate entrance for the in-law apartment?

Mr. Quinn: There is. There will be an entrance on the Ek Court side, over here. The in-law apartment will be within the body of the building. There is a four-season room that is part of the house itself. It's not in the in-law apartment, per se.

Mr. Gordon: The little jog in the back?

Mr. Quinn: Exactly, on the lake side.

Mr. George: Is that property sewerred?

Mr. Venti: It is. It has municipal water too.

Mr. Gordon: Across the street is a commercial building of types?

Mr. Venti: That's right.

Mr. Gordon: Down on Salisbury, it looked like there are two owners who have improved their houses to this degree?

Mr. Quinn: I was just going to say that.

Mr. Gordon: Yes. I wish the people on Ek Court would look at what's been done on Salisbury Street, but that's not our purview.

Mr. Salerno: Do you have any floor plan of how the in-law apartment's going to be laid out?

Mr. Quinn: We have a floor plan. It's an informal plan, but it's what the proposed building will be.

Mr. Salerno: That's the in-law apartment?

Mr. Quinn: Yes, it is.

Mr. Gordon: Is the roofline going to stay the same? No, of course it can't. It's going to be a new building.

Mr. Quinn: Right.

Mr. Gordon: So, it's going to be a one-story building with a foundation under it?

Mr. Venti: Well, the in-law will be on the first floor and then I'll live on two floors above that.

Mr. Gordon: Okay. There's a floor above it?

Mr. Venti: Two floors.

Mr. Quinn: It's a two-story building. The in-law is actually in the basement.

Mr. Gordon: The in-law is going to be in the basement? Okay.

Mr. Venti: Yes.

Mr. Salerno: Did you see the floor plan Mel?

Mr. Gordon: No, I haven't. So, it will be under the four-season room?

Mr. Quinn: Partially, yes.

Mr. Rosen: What you're tearing down, is the entire house coming down, the existing house?

Mr. Venti: Yes.

Mr. Rosen: Do you have any plans for what the replacement property will look like.

Mr. Venti: We have the plan that was submitted to you and the floor plan he gave you of the building.

Mr. Quinn: The plan that my office prepared is the site plan.

Mr. Salerno: I think what Mr. Rosen's question is, what is the house going to look like that you're going to put there?

Mr. Rosen: Is it going to be a colonial, a cape? What is the outside going to look like? What are the neighbors going to see?

Mr. Quinn: My office doesn't prepare those.

Mr. Salerno: Okay, how about your client? Does he know what he's putting up?

Mr. Venti: I do know. I actually have those in the car. I didn't know if you wanted them.

Mr. Salerno: What kind of a house is it?

Mr. Venti: It's a colonial.

Mr. Salerno: Two-story?

Mr. Venti: Yes.

Mr. Salerno: All right. What's the roof like; are there dormers on the roof?

Mr. Venti: No dormers, no.

Mr. Salerno: Straight box colonial?

Mr. Venti: Yes sir, with an attached two-car garage.

Mr. Salerno: Will there be a room over the garage or anything?

Mr. Venti: No.

Mr. George: And a sunroom off to the side too, right?

Mr. Venti: The sunroom is on the basement apartment.

Mr. Gordon: It's on the lake side.

Mr. Salerno: Paul, Steve, do you have anything?

Mr. George: How much larger is this house going to be than the existing house?

Mr. Quinn: The footprint on the site is comparable. The new house, though, will have two stories above ground and then there's the in-law apartment that will be in the basement level.

Mr. Salerno: So, from the lake view, it's three stories?

Mr. Venti: Correct.

Mr. Quinn: Yes.

Mr. Rosen: You're aware of the restrictions for the in-law apartment?

Mr. Venti: Yes.

Mr. Salerno: I would like to see the plans for the house.

Is there anyone in attendance who would like to comment on this petition? Okay.

Would you be kind enough to get those plans so that at least we can see those plans while we're deliberating on this matter? Could you submit those? That would be helpful. Just present them to Mr. Alarie. We'll move to the next matter on the agenda. But, because we've expressed a concern of what the house looks like and you've made some representations, often times we'll reference those plans in the decision.

Mr. Venti: Okay.

Mr. Salerno: So, to have those would be helpful. If we need to copy them, we can do that for you.

Okay. So, with that in mind, we'll take the matter under advisement, subject to you submitting those plans momentarily, and notify you of our decision.

Mr. Venti submitted the plans to Mr. Alarie.

Decision

On March 1, 2005, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Paul Venti, 18 Ek Court, Shrewsbury, MA, for special permits as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and Section VI, Table I, to allow the removal of the single family dwelling situated upon property located at 18 Ek Court and its replacement with a new single family home, including an in-law apartment therein, maintaining the existing setbacks of said property.

Mr. Venti's property is located at the corner of Ek Court and Salisbury Street and also has approximately 40 ft. of shoreline frontage along Lake Quinsigamond. The lot was developed prior to the adoption of zoning in Shrewsbury and is nonconforming with respect to its area and front yard setback from Ek Court. Mr. Venti proposes to remove the existing dwelling and replace it with a new Colonial style home with an attached two-car garage and an in-law apartment situated within the walk-out basement level of the structure.

Upon review of this appeal, the board determined that the re-development of this property, as proposed by the appellant, would lessen its nonconforming features and that it would also promote one of the stated purposes of the Zoning Bylaw which is to preserve the value of buildings or land within the town. They found that the new home, when completed, would compliment other properties within this neighborhood and that the reconfiguration of this premises would not create any condition which would adversely impact the welfare of area residents. Similarly, it was their opinion that the inclusion of in-law accommodations within the new residence was in harmony with the intent of the bylaw in permitting such accessory living arrangements within a single family dwelling. It was, therefore, unanimously voted to grant the appeal as presented to

the board subject to the limitation that the in-law apartment shall only be occupied by three or less individuals, all of whom shall be related to the principal residents of this property.

Vote

| | |
|---------------|-----|
| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Rosen | Yes |
| Mr. Rodolakis | Yes |

PUBLIC HEARING: Ted and Maureen Migdelany, 20 Old Faith Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Ted and Maureen Migdelany, 760 Washington Street, Holden, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal of the dwelling situated upon property located at 20 Old Faith Road and its replacement with a new single family home maintaining the existing setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 52 as Plot 4.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Ronald I Rosen, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Would you and your representative identify yourself for the record and make your presentation.

Ms. Migdelany: I'm Maureen Migdelany.

Mr. Migdelany: I'm Edward Migdelany.

Mr. Melick: I'm Jay Melick. I prepared the plan for the residence.

Mr. Salerno: Thank you sir.

Mr. Melick: The property, as you know, is at 20 Old Faith Road, which is off of South Quinsigamond Avenue. What we're dealing with is a deep and narrow lot, basically close to 300 ft. deep and 50 ft. wide. There's an existing single family residence on the lot, roughly 1,400 sq. ft. in size. What we're looking to do is demolish the existing structure and keep the proposed residence within the same footprint. We will not encroach on the side property any further. However, we will be expanding the residence,

but still keeping all of the expanded area in a space that's within the setback requirements, which are 10 ft. from the sides and 40 for the rear and 30 for the front. The proposed residence would be roughly 3,000 sq. ft. The reason why we're looking for the special permit is that the lot is currently nonconforming owing to the insufficient amount of frontage in a B-2 District. It currently has only 52 ft. of frontage. The existing structure is a pre-existing, nonconforming structure owing to its distance from the side yard setback.

Mr. Salerno: Do you know the difference of the percentage of lot coverage that you're going to have going from the existing house to the proposed house, how much of a change?

Mr. Melick: I don't have the exact figure, but we are increasing it. We're probably adding about double the footprint area of what is existing. I don't believe that that would put us into a problem with the maximum percentage coverage. Is that your concern, the percentage coverage?

Mr. Salerno: Yes.

Mr. Melick: Thirty percent would be the maximum area coverage. The area of the lot is roughly 14,000 sq. ft. The footprint area is close to 2,000. So, it's certainly less than the 30 %. If you do the arithmetic, you'll get the exact numbers.

Mr. Gordon: The house is right on the line, close to the water.

Mr. Salerno: How close will this structure be to the structure on the lot next to it? How far away will it be, the new proposed one, from that house?

Mr. Melick: There's a house located on this property. It's just before the subject property. They're about 10 or 11 ft. from the property and our existing structure is 3 ft. So, it would put us close to 15 ft. On the other side, we're probably closer to 30 ft.

Mr. George: So, that's 15 ft. from house to house?

Mr. Melick: Yes.

Mr. Migdelany: I think it's more than that.

Mr. Salerno: That's where the current footprint is. The profiles for the house, sir, that you're going to construct, do you have any diagrams or other plans?

Mr. Melick: Elevation plans?

Mr. Salerno: Yes, side profiles or something that would tell us what it is that you're going to build there. One of the reasons that we ask for those is that there's 15 ft. between the buildings. What's essentially there right now is a modified camp or cabin?

Ms. Migdelany: Yes, it is.

Mr. Melick: They all are.

Mr. Salerno: If you put up a big colonial, that 15 ft., even though it doesn't change, shrinks substantially to the person next to you.

Mr. Migdelany: I think it's more than 15 ft. I know it's more than 15 ft.

Mr. Salerno: But the concept of what we're suggesting to you is that we have small cabins and camps down there that have been modified. Again, the distance between them doesn't change, but the appearance does if the house you propose is not close in magnitude to what's there now.

Mr. Gordon: I think that, on that street, we have homes that go from probably 700 ft. to 4,000 sq. ft. Some of the new ones at the other end are about 2,800 or 2,900. In fact, the woman who built at the end, I think that she was from Holden also, built about that size.

Mr. Migdelany: Oh, really?

Mr. Gordon: Yes. It's way down. Well, don't try to get there in the winter. Is this a one-car garage?

Mr. Melick: Actually, it will be a two-car garage. This is not deep enough for the storage of a vehicle. It will probably be used for equipment purposes.

Mr. Gordon: Where is the two-car garage going to be?

Mr. Salerno: Coming in the other way, off to the side?

Mr. Melick: It will have direct entrance from the street.

Mr. Gordon: That brings me to another point. I notice that Mr. Aboody was your neighbor on the other side.

Mr. Melick: That's correct.

Mr. Gordon: You almost, but not quite, share a driveway.

Mr. Migdelany: Yes.

Mr. Gordon: Are you going to have the same driveway as you have now? Are you going to move your driveway?

Mr. Migdelany: I can't really say.

Mr. Gordon: It's awfully close.

Mr. Migdelany: There's really not much movement there.

Mr. Gordon: I think his driveway is just about on your property line, as I understand it.

Mr. Migdelany: I think so. I don't really know exactly where the property lines are yet.

Mr. Gordon: I spoke with him. He had no problems. It's always a good idea to talk to the neighbors.

Mr. Migdelany: Yes. I haven't seen anybody there yet. I've been over there about six or seven times.

Mr. Gordon: He's a single person. That may be the problem. Is this a two-story house?

Mr. Melick: Yes.

Mr. Gordon: Okay, with a foundation under it?

Mr. Melick: With a concrete foundation.

Mr. Gordon: I have no other problems.

Mr. George: Have you spoken to any of your abutters about your plans for what you're planning on doing there?

Mr. Migdelany: No.

Ms. Migdelany: Actually, we just flew back from Florida for this meeting so we haven't really met anybody down there or anything yet. Every time we've been there, no one else has been home.

Mr. Salerno: Is this something that you plan to occupy yourselves or are you doing this for re-sale?

Mr. Migdelany: Yes, year round.

Mr. Salerno: Year round? When you complete the transition from what's there to what's proposed, based on that plan, is that going to have any affect on any abutter's views of the water or things of that nature?

Mr. Migdelany: Views of the water, is that what you said?

Mr. Salerno: Yes, sir.

Mr. Melick: We actually looked at it from that standpoint when we first started to layout the design of the house. We took that into consideration. If you notice on this small site plan, the property which would be the Kevin Kenefick...

Mr. Salerno: The buffer zone?

Mr. Melick: Yes. He's probably about right in the same line as we are in terms of setback from the water. The Aboody house is slightly back a little further towards the street.

Mr. Salerno: Anybody else?

Mr. Rodolakis: Does this require a filing with conservation?

Mr. Melick: It should, yes. I'm sure it will.

Mr. Rodolakis: Okay. Has that been done?

Mr. Melick: We're within the 100 ft. buffer.

Mr. Rodolakis: Okay, but that has not been done yet?

Mr. Melick: It has not been done.

Mr. Migdelany: I just learned about that yesterday when I came to this building to get the zoning board thing. I met with the conservation officer. He said that it does need a conservation permit.

Mr. Salerno: Have you purchased it sir or is it under a purchase and sale agreement?

Ms. Migdelany: It's under purchase and sale.

Mr. Migdelany: It's under purchase and sale depending on the decision of this board comes up with.

Mr. Salerno: Contingent on what happens here tonight?

Mr. Migdelany: Yes.

Mr. Salerno: Are there any abutters here this evening who want to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Mr. Gordon: Any decision we make would have to be subject to conservation.

Mr. Melick: How long do you think that session would take?

Mr. Gordon: Not subject to, but they have to get conservation, otherwise, it doesn't matter.

Mr. George: We have a 20 day appeal period.

Ms. Migdelany: You have what?

Mr. Gordon: We have a 20 day appeal period. Is it 20 Ron?

Mr. Salerno: Yes, from the date that the decision's issued.

Mr. George: Yes.

Ms. Migdelany: Okay.

Mr. Gordon: Before that time, you probably will see conservation.

Ms. Migdelany: So, you have the 20 days from the day you do this?

Mr. Salerno: The date that the opinion is filed with clerk's office.

Ms. Migdelany: Okay.

Mr. Salerno: There's a 20 day appeal period that runs that somebody could intervene and file an appeal.

Ms. Migdelany: Okay. Our contingency was the day after this meeting. We're supposed to come up with an answer. We didn't know that. We assumed we would have the answer tonight.

Mr. Salerno: Well, I'm sure that you're represented by an attorney. He'll know what to do. Probably he'll seek an extension or something to allow the decision to be final.

Ms. Migdelany: Okay.

Mr. Melick: Okay, thank you.

Decision

On March 1, 2005, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Ted and Maureen Migdelany, 760 Washington Street, Holden, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal of the dwelling situated upon property located at 20 Old Faith Road and its replacement with a new single family home maintaining the existing setbacks of said property.

The subject property, which was developed well before the adoption of zoning in Shrewsbury, is nonconforming in terms of its frontage and its side yard setback. It is a very long, narrow lot and extends from Old Faith Road to the shoreline of Lake Quinsigamond. The appellants propose to remove the existing single family dwelling situated upon the property and replace it with a new, somewhat larger residence that would maintain the existing northerly side yard setback.

Upon review of this appeal, the board found that the proposed redevelopment of this property would not materially change its nonconforming character, adversely impact the

welfare of area residents or detract from the general character of this neighborhood. They noted that the building exposure along the aforementioned lot line would increase from approximately 46 ft. to just over 115 ft. and felt that the setback to this line should be increased to compensate for this extension. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the restriction that a minimum setback of 4 ft. shall be maintained to the parcel's northerly side lot line.

Vote

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|---------------|-----|
| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Rosen | Yes |
| Mr. Rodolakis | Yes |

PUBLIC HEARING: Paul Valenti, 1-3 Temple Court, Shrewsbury, MA.

PURPOSE: To hear the appeal of Paul Valenti, 86 Pilgrim Ave., Worcester, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Area, Front, Side, and Rear Yard Requirements, Rural B District, to allow the construction of a single family dwelling upon property having 11,000 sq. ft. of land located at 1-3 Temple Court and to allow said construction 28 ft., 19 ft. and 40 ft. from the front, side and rear lot lines, respectively, of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 19 as Plot 39.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Ronald I Rosen, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Would the parties identify themselves for the record.

Atty. O'Neil: Mr. Chairman, Donald O'Neil, I'm a lawyer with offices at 370 Main Street in Worcester. With me this evening is Paul Valenti, the owner of the property.

I don't know if your records reflect this, but we had obtained several variances from the board in December of 2003. What we're proposing this evening is very similar to what was previously proposed. My client, after getting the approval, took some time to get through the conservation commission process with the engineers and the conservation commission and actually didn't get his approval until October or November of this past year. Then he neglected to request an extension of the variance prior to the expiration. It was about two or three weeks after the December date that he realized that the one year was up.

Mr. Salerno: Is there a change, counsel, from what was approved?

Atty. O'Neil: Yes. There is a change in that we have made it better than it was in that, under the old variance, we were 20 ft. off of the front yard. We are now just about 28 ft. On the side yard, we were 16 ft. We're now 19 ft. The rear yard stayed the same at 40 ft. The difference being that the previous house was 30 ft. x 68 ft. The dimension of the house he intends to build is 34 ft. x 60 ft. So, we took 8 ft. off of the length and added 4 ft. to the width. That allowed us to reposition the house a little bit and bring it into closer compliance with what we had.

Before I get too far, I noticed that Mr. Valenti had prepared the application. I know on the previous variance that there was a reference to the frontage as well which is not advertised for this time. I didn't see the application before it went in. I know that the lot is on the corner of Lear Street and Temple Street so it does appear to have the 125 ft. if you include both frontages. I think that the original request that was done in 2003 made reference to the frontage, but I'm not sure that any specific relief was granted for that or whether it would have been required.

Basically, that is what we're looking to do. He's refined his plans and he's obtained approval of the conservation commission. He's been able to position the house so that we can operate with less variances than what we were previously granted. We would ask for the board's approval. I don't know if Mr. Alarie is in a position to give us feedback on that frontage, but I didn't prepare the application myself and I just noticed it this evening.

Mr. Salerno: Do we have a copy of the decision?

Mr. Alarie: I believe it's in your packet there.

Mr. Salerno: Oh, it's in a separate folder?

Mr. Alarie: Yes, it's the file for the last hearing. I believe that the frontage, the way that it appeared at that time, was all continuous along one street. It was a very basic plan that he presented. I think that that's why it wasn't included at this time.

Atty. O'Neil: I think the application made reference to it, but I'm looking at your decision. You didn't grant a variance for it. I suspect that, if we needed it, it would have been referenced there. Looking at it, I can give you a plan which shows that it is essentially a corner lot. It's got about 96 ft. on Temple Court and it's not dimensioned, but based upon the scale that's on there, it's probably another 40 feet or so on Lear Street.

Mr. George: So, was the original variance was 20 ft. and it's now 26.5 ft.?

Atty. O'Neil: It is now... The front setback, I believe, we're showing at 28.5 ft. So, in effect, we've added 8.5 ft.

Mr. George: To the front setback?

Atty. O'Neil: Yes. With the 68 ft. wide house that we had gotten approval for, 16 ft. on the side yard, we're now 19 on one side and 27.8 on the other. We still maintained the 40 ft. rear yard setback, which is what we had previously been granted. I think it's a much better fit all around in terms of coming closer to the current setback requirements. Part of that has to do with the engineering. The lot's a little bit irregularly shaped and, just by changing the dimensions a little bit making it shorter and a little bit wider and twisting it a little bit, we were able to improve what we had.

There also is in the package a copy of the existing foundation. I don't know if you've seen this copy. There was a house on this property. It was built basically right on the street. It was demolished a number of years ago. It was not reconstructed within the two years, but this is one of the largest lots in that vicinity. We feel that what we're proposing is consistent with the neighborhood and consistent with what that property has been used for. In fact, it's a great improvement over what would have been there if that house had been rebuilt.

Mr. Gordon: I remember that. Wasn't that a house that was blown down during the tornado of fifty whatever? Fifty-three, I believe.

Mr. Salerno: It was before my time, Mel.

Mr. Gordon: I was around.

Mr. Alarie: Was there not a stipulation that the house did not exceed 30 by 68 or so?

Mr. Salerno: Yes, it's in the decision.

Mr. Alarie: I think, really, that's the only area where this departs from what was previously approved. The width is increased to 34 ft.

Atty. O'Neil: But we're taking 8 ft. off of the length.

Mr. Gordon: Weren't there also some unusual jogs in that drawing? It wasn't a straight rectangle on that drawing.

Mr. Salerno: In the December 5, 2003 decision, it did have three stipulations. The first was that it had to be a single family dwelling constructed on this property. It shall be of a split level or similar, single story design substantially similar to the plan presented to the board. As Ron had said, the overall dimensions of the structure shall not exceed 30 ft. in depth or 68 ft. in length. The structure shall be positioned substantially in accordance with the plot plan submitted to the board.

Are you aware, counsel, of those three stipulations in the decision?

Atty. O'Neil: Yes. Again, I would say that we still have a split level design. We do have a new plot plan which I think, as I've indicated, is more preferable than what we had before, which was a little narrower but quite a bit longer, but consequentially, added to the need for greater variances.

Mr. Gordon: My memory's not too good but I thought that, when Mr. Valenti came in to us, he came in with a larger drawing than the original filing. That's why we cut it back. I don't think I have a problem with this, but I just wonder if the delay was a chance to get a larger house.

Mr. Alarie: He came back twice originally.

Mr. Gordon: The delay was to change the house?

Mr. Alarie: Yes. He did not have a definitive house plan to start or a footprint. He came back at a second meeting, presented the board a plot plan, but not a true house plan, just an elevation. That's why they set those stipulations in terms of the configuration of the house and the size of the house.

Atty. O'Neil: Mr. Gordon, I do have a copy of what was originally submitted. I think when the petition was submitted at that time, he originally was looking for 68 ft. x 38 ft. What you gave him was a 68 ft. but shaved 8 ft. off of the width. Part of that was that he had some ideas but didn't have a full set of plans yet in terms of what he was going to do. The board said to him "Well, what's the minimum or whatever that you could live with." He said "30 ft. x 68 ft." That was what was approved. But, as I say, in refining the process, we feel that this new proposal is preferable.

Mr. Gordon: My concern always is did he let the thing expire so that we could come in with something closer to what we wanted in the beginning as opposed to what we were granted? That's a question for Mr. Valenti to answer and for you, counsel, to answer. Did you let the thing expire so that you could come back to us with a plan that was more advantageous to you and was not exactly what we approved?

Atty. O'Neil: No, because I actually think this is more advantageous to the town. Actually, in terms of what we're asking for, it is less than what we had previously. Even though we're adding 4 ft. to the width, we're actually increasing the setback by 8.5 ft. We're maintaining the same setback on the back. So, I think that it has to do with repositioning the structure on the lot. In fact, it was an honest mistake on his part where he got involved in the conservation commission approvals and time went by and the date just got away from him.

Mr. Gordon: Is this the house that was approved by the conservation commission?

Atty. O'Neil: Yes, it is.

Mr. Valenti: Actually, it was the 30 ft. x 68 ft., the house that was approved by the conservation commission.

Atty. O'Neil: I stand corrected.

Mr. Valenti: I have the conservation plan here, if you want to look at it.

Atty. O'Neil: We have the conservation commission approval. I was not involved in that aspect of it.

Mr. Gordon: Why don't we take a look at that, if you don't mind?

Mr. Salerno: Has the 2003 decision expired?

Mr. Alarie: It expired in December of last year.

Mr. Salerno: So, that issue's kind of moot. Now it's expired, but is that the decision that you used for the conservation commission?

Mr. Gordon: Well, that's what I want to know. Is that the decision that was used for conservation?

Mr. Salerno: He presented it to the conservation, yes.

Mr. Gordon: Because, we can go through this whole thing again. Do you have the conservation decision?

Mr. Valenti: No. I filed it.

Atty. O'Neil: I would say in that regard, if I might, that it is the same setback under what we're proposing and what is shown on the plan. We're still showing 40 ft. off of the rear property to Lake Quinsigamond. Naturally, if we make the change in the plan, it would require a trip back to the conservation commission, but having gone through the whole process and, in effect not getting any closer to the lake, I wouldn't expect that it would take ten months to get that done again.

Mr. Alarie: Both footprints, Mr. Gordon, have exactly the same square footage.

Mr. Gordon: Okay. I'm all set.

Mr. Salerno: The 2003 decision is, basically, moot anyway.

Is there anyone in attendance who would like to comment on this petition? Counsel, seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 1, 2005, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Paul Valenti, 86 Pilgrim Ave., Worcester, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Area, Front, Side, and Rear Yard Requirements, Rural B District, to allow the construction of a single family dwelling upon property having 11,000 sq. ft. of land located at 1-3 Temple Court and to allow said construction 28 ft., 19 ft. and 40 ft. from the front, side and rear lot lines, respectively, of said property.

On October 28, 2003, the appellant was granted several variances to permit the construction of a single family dwelling not exceeding 30 ft. in depth and 68 ft. in length upon the subject premises. Subsequent to the filing of that decision, Mr. Valenti sought approval of the Conservation Commission to develop this parcel as it fronts upon the shoreline of Lake Quinsigamond. However, he did not obtain such approval until the late Fall of 2004 and then failed to effect the variances prior to the expiration of the authorized rights last December. He now appeals to the board to re-issue those variances and to permit the construction of a 34 ft. by 60 ft. residence upon this site.

Upon review of this appeal, the board concluded that, as similarly outline in their October 2003 decision, there are several conditions affecting this parcel that impose a substantial hardship to Mr. Valenti in his attempt to construct a single family home upon this lot and voted to incorporate that decision herein by reference. It was their continued opinion that the development of this property for said use would neither derogate from the intent of the Zoning Bylaw nor adversely affect the welfare of either the general public or other residents of Lear Street/Temple Court. It was, therefore, unanimously voted to grant the appeal as presented to the board limiting the gross outside dimension of the dwelling to a maximum of 34 ft. in depth and to 60 ft. in length and to also limit the height of the structure to not more than one story.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Rosen | Yes |
| Mr. Rodolakis | Yes |

PUBLIC HEARING: Scott and Jessica Schedin, 40 Oakland Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Scott and Jessica Schedin, 40 Oakland Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural B District, and a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of additions upon property located at 40 Oakland Ave. 6 ft. from the sideline of Oakland Ave. and maintaining the existing side and rear setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 19 as Plot 16.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Ronald I Rosen, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Please identify yourself for the record and make your presentation.

Ms. Schedin: Jessica Schedin.

Mr. Schedin: Scott Schedin.

Mr. Melick: I'm Jay Melick. What we're looking to do is to present our application for a special permit. The house is an existing single family house situated on a lot in a Rural-B zone which would require many variances from setbacks. Certainly, it's pre-existing, nonconforming and has been here for quite some time.

Mr. Gordon: I was going to say it's pre-existing.

Mr. Melick: Its lot area is not conforming, the frontage and setbacks, front, rear and side, are all nonconforming. In fact, the lot would disappear if we took off all of the setbacks because there would be a side, rear and front. The structure is existing.

What we're looking to do is put a second floor on the existing residence and also come forward at the front of the house. I don't know if the board has looked at this property?

Mr. Gordon: The little yellow house?

Mr. Melick: Yes.

Mr. Gordon: Yes, I've looked at it. Will the house support another floor?

Mr. Melick: Pardon me?

Mr. Gordon: Will the house support a second floor?

Mr. Melick: Well, the detailed plans we have yet to prepare, but it would certainly be designed to be able to do so. The foundation certainly is in good shape.

Mr. Gordon: Oh, is it?

Mr. Melick: That's the most important element.

Mr. Gordon: I wasn't going to go down the hill.

Mr. Schedin: Because I didn't shovel the steps?

Mr. Gordon: That's true.

Mr. Melick: At the front of the house, at the street side, you have to come down about 4 ft. in order to enter into the main level of the house. So, what we're trying to propose to do is to put a retaining wall in the front and fill this in so that it's pretty much level and, in doing so, let that retaining wall be the front of the new entrance vestibule that we're proposing. So, not only are we looking for a second floor on the existing house, but also

we're trying to remedy that front situation, which is a little difficult. There are some issues with the existing wall in the front. I felt that the solution was to create a vestibule that we could come in on the street level rather than walking down and then into the house. That would require a small addition on the front of the house, which is also part of the request.

I don't know if you've seen the site plan? I think it's probably in the package that you all have. You can see the shaded area in front. This is the new footprint that we're proposing. The second story is basically above the existing portion that's there.

There's another serious condition there too that's due to the slope of the existing lot. Any addition that would be proposed on this house really would have to go up in order to acquire the additional space that they're looking to pick up. We're not increasing the bedroom size of the house. Basically, it's just shuffling these rooms around and enlarging the living space. It still will be a two-bedroom house, as it is now.

Mr. Gordon: So, it's going to go from 600 sq. ft. to about 1,200 sq. ft.?

Mr. Melick: Seven hundred and eighty is the footprint and so it would be another 780 sq. ft. on top of that. The lot coverage, I have the answer to this one, I didn't on the last one, but we're just under the maximum. The existing conditions with the front addition would be at about 19 %. Twenty percent is the maximum lot coverage. So, that's basically as it exists.

Mr. George: You're basically using the same footprint, just going up?

Mr. Melick: Yes and then coming forward with a new entrance vestibule in the front of the house. That would be new footprint.

Mr. George: How large is that?

Mr. Melick: Eight feet forward and it would be 26 ft. in length, which is the width of the existing house, overall, 8 ft. x 26 ft.

Mr. Salerno: Can you show us on this plan where it is?

Mr. Melick: Sure. This shaded area right here.

Mr. Salerno: Right here.

Mr. Melick: Yes.

Mr. Salerno: What's the size of that?

Mr. Melick: Eight feet by 26 ft. Twenty-six is the width of the house. This area here, the street, is elevated.

Mr. Salerno: This says "plus 15."

Mr. Melick: That's 15 ft. to the property line.

Mr. Salerno: Okay.

Mr. Melick: It's from the existing house to the front of the property line. It's 15 ft. now. We'd be close to 7 ft.

Mr. Gordon: That's my question. What are you doing on the sides? You have a deck there now. Is that deck just going to remain?

Mr. Melick: I assume yes.

Mr. Gordon: Those decks down to the water?

Mr. Schedin: Yes.

Mr. Gordon: The slope must be 50 ft. from the house to the lake and probably another 8 ft. up to the street.

Mr. Melick: It's very close to that. The lot is about 100 ft. deep so it's very close to a 50 ft. drop.

Mr. Gordon: Yes.

Mr. Melick: And almost 50 ft. down.

Mr. Gordon: That's what I mean. It goes straight down.

Mr. Melick: I actually think it's 32 ft. from the street down to the water.

Mr. Gordon: Have you spoken to your neighbors?

Ms. Schedin: Yes.

Mr. Schedin: Yes.

Mr. Gordon: Okay. Did any of them have a problem?

Ms. Schedin: No.

Mr. Gordon: They're all on the street that Shrewsbury forgot some time.

Ms. Schedin: Yes.

Mr. Schedin: No. We've had discussions with them all, showed them all the plans and they're kind of all for it. It's just going to help them out in some form or fashion later on.

Mr. Gordon: I think your neighbor next door, didn't he improve his house recently too?

Mr. Schedin: Yes and the couple down the street have also.

Ms. Schedin: On the very end.

Mr. Salerno: Do any board members have questions? Is there anyone in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 1, 2005, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Scott and Jessica Schedin, 40 Oakland Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural B District, and a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of additions upon property located at 40 Oakland Ave. 6 ft. from the sideline of Oakland Ave. and maintaining the existing side and rear setbacks of said property.

The appellants' property is located between Oakland Ave. and the northerly shoreline of Lake Quinsigamond and has a number of nonconforming features including its frontage, area and front and side yard setbacks. Furthermore, the property slopes severely from road grade down to the water with the first floor of Mr. and Mrs. Schedin's residence about 6 ft. below Oakland Ave. They propose to add a second story to their home and, to temper the difference in elevation, they desire to add 8 ft. to the front of the structure. The front yard would be filled to provide a uniform grade out to the road and a level plane of access to their home.

It was the board's opinion that, due to the size of the subject property, its severe topography and its other nonconforming features, the application of the minimum dimensional controls set forth in Table II of the Zoning Bylaw to this site presents an undue hardship to the appellants. They found that the proposed expansion of the Schedins' home would not seriously depart from the intent of the bylaw or adversely impact the welfare of other residents of the Oakland Ave. neighborhood. It was, therefore, unanimously voted to grant the special permit and the variance to permit the reconfiguration of this dwelling in accordance with the appellants' presentation to the board.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Rosen | Yes |
| Mr. Rodolakis | Yes |

PUBLIC HEARING: Dianne S. Moalli, Trustee of the Paul Moalli Realty Trust, 77-79 Walnut Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Dianne S. Moalli, Trustee of the Paul Moalli Realty Trust, 89 Walnut Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the occupancy of a third dwelling unit within property located at 77-79 Walnut Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 24 as Plot 44-4.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Ronald I Rosen, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Atty. St. Pierre, would you like to proceed?

Attorney St. Pierre: Good evening Mr. Chairman and members of the board. I'm Atty. Rod St. Pierre. With me is Dianne Moalli, the owner of the property.

This is an application for a special permit to add a third dwelling unit, a third apartment at her house. This is the original farm that was built some 250 years ago. During its existence, it has served as a three-family, however, that has been discontinued. The apartment, as you'll note from the plans as well as the pictures, is in the rear portion of the property. In the pictures, you'll see a brick fireplace. It's that section there. It does have separate entranceways, both at the front and the rear. There will be no exterior changes proposed for this use. The only thing different will be adding some new doors, some new exterior doors, and maybe a back staircase as well for safety reasons.

The Moalli family has owned this farm some 50 years. It consists of some 48 acres. Again, the original farmhouse was built 250 years ago. Dianne's husband passed away about a year ago and, since that time, has had a number of proposals submitted to her to develop this property for a residential subdivision. She's really not interested in doing that. She wants to maintain it as a horse farm. With the uncertainty of losing a spouse, this additional income will definitely help her with that situation.

The request before you, again, is not more detrimental to the neighborhood. There will be absolutely no changes to the building. It's going to stay, you'll see again from the pictures, in a rural setting. There is sufficient parking on the site to handle this additional unit. As I said, it has been used as a three-family in the past. It's really just utilizing space that's there. There'll be no physical changes whatsoever. We would be happy to answer any questions that you may have.

Mr. Salerno: Do any board members have questions?

Mr. Gordon: I have a couple of questions.

Mr. Salerno: Go ahead.

Mr. Gordon: Rod, where the electricity comes in, there were three meters. The third meter would be re-installed if this went in with no changes?

Attorney St. Pierre: There should not be any changes. I think the third meter would be installed. Again, it depends on what is needed once the electrician gets in there. There has to be some upgrading of the electrical service. I would think that the intention is to have a separate meter. I believe that each tenant pays their own electricity now. The third tenant will be the same thing.

Mr. Gordon: So, this would basically be three apartments on 47 acres of land?

Attorney St. Pierre: Yes. To answer your question, for all intents and purposes, the property is all commingled. It's all owned in common with the land.

Mr. Gordon: This is all 61A land?

Attorney St. Pierre: Yes. It's all farm land, but again, very desirable land.

Mr. Gordon: Would you have any problem if the special permit specified that this would remain this way only as long as the land was 61A?

Attorney St. Pierre: I would recommend that to my client, absolutely. In other words, if we decide to sell, it would revert back to a two-family.

Mr. Gordon: You would revert back to regular zoning, right? This would be a two-family.

Attorney St. Pierre: Right. That's fine. Yes, again, it's a preexisting, nonconforming use now. That's fine. We'd definitely stipulate to that.

Mr. Salerno: Is there anyone in attendance who would like to comment on this petition? Go ahead Mr. Lebeaux, we'll go left to right.

Mr. Lebeaux: Mr. Chairman and members of the board, my name is John Lebeaux. I live at 203 Walnut Street. I speak tonight in no public capacity, just as a private citizen. The Moalli family has been neighbors to my family for the 50 years that they've been there. They have been wonderful neighbors, good people. I can't see how this proposal could cause any negative affect to the neighborhood. I ask you to approve the application. Thank you.

Mr. Salerno: Thank you, Mr. Lebeaux. Sir?

Mr. Highlands: I'm William Highlands. I live at 65 Walnut Street. I abut it from the westerly direction. I look at the house all the time. I appreciate the way it's kept. I appreciate the farm. I live next to a wonderful field. I see a lot of wild animals. So, anything that's being done and it doesn't do any damage to the appearance of the property, I'm 100 % for it.

Mr. Salerno: Thank you for taking the time to come in and tell us that. Is there anybody else? Sir, just identify yourself for the record.

Mr. Mancini: Ralph Mancini, 86 Walnut Street. I live across the street from the Moallis. We've been their neighbors for about 39 years. They've been excellent neighbors. I recommend that you approve this.

Mr. Salerno: Thank you, sir. Ma'am?

Ms. Rylander: I'm Sue Rylander. I live at 96 Walnut. I also recommend that you approve it as well.

Mr. Salerno: Thank you all for coming and telling us that. Sir?

Mr. Racine: I'm Marcel E. Racine. I live right across the street from them. I support everything everybody has said and I certainly recommend that you approve that.

Mr. Salerno: Is there anybody else? I'm sure other board members have their position too, but I have to tell you, it's a pleasure to drive by your property in town, your farm, and not see a subdivision there.

Mr. Gordon: It's one of the prettiest pieces of land in town.

Mr. Salerno: I would like to complement you on that. It sounds like a pretty convincing presentation. Do any board members have questions? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 1, 2005, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Dianne S. Moalli, Trustee of the Paul Moalli Realty Trust, 89 Walnut Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the occupancy of a third dwelling unit within property located at 77-79 Walnut Street.

The appellant's property consists of multiple buildings and structures, including a single family home, a two-family dwelling and several barns and outbuildings, which are situated upon a tract of farm land that is approximately 48 acres in area. The two-family home, which is the subject of this appeal, has a vacant area that was once occupied as a third apartment within this structure and Ms. Moalli requests the issuance of a special permit restore its occupancy for said use.

Upon review of this appeal, the board found that, due to the size of the existing building, its past use and the configuration of the subject property in its entirety, the re-creation of an additional dwelling within a small ell situated to the rear of this structure would not materially change its nonconforming use or adversely impact the welfare of area residents. They noted that Ms. Moalli's property is perhaps one of the largest remaining tracts of undeveloped land with the town and that the granting of the special permit

would assist in maintaining its use for agricultural purposes thereby advancing the interests of the Zoning Bylaw. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the stipulation that the third dwelling unit may be occupied as long as the premises is not further subdivided into additional building lots.

Vote

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|---------------|-----|
| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Rosen | Yes |
| Mr. Rodolakis | Yes |

PUBLIC HEARING: Dean and Kim Hickey, 4 Park Grove Lane, Shrewsbury, MA.

PURPOSE: To hear the appeal of Dean and Kim Hickey, 223 Oak Street, Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front and Rear Yard Requirements, Rural A District, to allow the construction of a single family dwelling 45 ft. from the westerly sideline of Park Grove Lane and 40 ft. from rear lot line of property located at 4 Park Grove Lane. The subject premises is described on the Shrewsbury Assessor's Tax Plate 17 as Plot 133-2.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Ronald I Rosen, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Would you be kind enough sir to just identify yourself for the record and make your presentation.

Mr. Hickey: My name is Dean Hickey, owner of that lot. My wife, Kim, isn't here. She drew up these plans. These are the house plans for the house that we would like to build.

Mr. Salerno: Why don't you start with Mr. Gordon.

(Mr. Hickey presented the plans to Mr. Gordon)

Mr. Hickey: Since we submitted the proposed site plan with the footprint I've found out that a portico does not have to fit within the setbacks, within the envelope. The request for the variance on the front is actually for the portico, as you can see. So, I would like to withdraw that at this point and only focus on the back.

Mr. Gordon: Is that true Ron?

Mr. Alarie: If it's not enclosed, it's just a roof.

Mr. Hickey: It's not enclosed. You can see from the drawing that it has columns. It has a roof, but it's not enclosed.

Mr. Alarie: That was only included because it was taken off of the footprint that was submitted with their filing. That's why it was included in the ad, because that's all that we had for a submittal. If it just has a roof overhang, it's not included.

Mr. Hickey: So, the goal here is to build a house which conforms to the covenants set forth by Park Grove Realty Trust, which has a minimum house size of 3,500 sq. ft. It also requires that we go before them for the architectural review committee so that we build a house that compliments the rest of the neighborhood.

Mr. Salerno: Those are private covenants sir, deed restrictions.

Mr. Hickey: They are.

Mr. Salerno: We don't have any authority to enforce those.

Mr. Hickey: Understood, understood. But, others in the neighborhood are building homes that conform to those. I'd like to build a home that compliments what they're doing and doesn't distract from their real estate value. I don't want to come in and hurt the rest of the neighbors.

I have a copy of the site plan here. I don't know if you have a copy of it? Our lot is very shallow in comparison to the others.

Mr. Salerno: Which lot are you?

Mr. Hickey: Lot 2.

Mr. Gordon: The second lot up on the right.

Mr. Hickey: The curvature of the road actually acts as a...

Mr. Salerno: There's a house built on both sides of you, right?

Mr. Hickey: There are.

Mr. Salerno: And, you're trying to fit a 3,500 sq. ft. house in there?

Mr. Hickey: Into that, yes. It's a two-story home.

Mr. George: The rear of the house that you need the variance for, is that just one story, two stories?

Mr. Hickey: That's two stories. That backyard abuts Dean Park.

Mr. Salerno: Are you under purchase and sale on that lot?

Mr. Hickey: I own it.

Mr. Salerno: You bought it?

Mr. Hickey: I own it.

Mr. Gordon: Can you tell me what the hardship is?

Mr. Hickey: I bought the house. I'm obligated to build a 3,500 sq. ft. house I understand that this is my problem, a 3,500 sq. ft. house. I can't do it without a variance.

Mr. Salerno: You're saying that there's no way that you can build a house with the minimum square footage?

Mr. Hickey: And, have it be complementary to the rest of the neighborhood.

Mr. Salerno: But, the people who designed the neighborhood and designed the lots and carved the lots out are the same people that said the restrictive covenants?

Mr. Hickey: Right. I've actually sent him a copy of what we're trying to build. I sent him a copy of this proposed variance. I got a call from him this morning. He's ill and could not appear here tonight, but gave his blessing.

Mr. Salerno: I guess the question that I would have is, in looking at it, that the developer self-imposed the restrictive covenants that are private to enforce.

Mr. Hickey: Yes, yes.

Mr. Salerno: And, he has to approve the house you're building. That's a private contract between you and him. But, they cut up the lots and they maximized how many lots they could put in that development to 15 Knowing that it would be very difficult to construct a house.

Mr. Hickey: Absolutely.

Mr. Salerno: So, in essence, what we're doing if we give you a variance is what we sometimes call shoehorn development, you're squeezing a house in here because they squeezed another lot in here.

Mr. Hickey: Understood.

Mr. Salerno: Okay.

Mr. Hickey: Understood. I'm asking you to do that not because I need to live in a 3,500 sq. ft. house; I'm asking you to do this because the minimum square footage for the rest of the neighborhood is just that.

Mr. Salerno: Yes. That's where I want to correct you. That's not a law. That's a private deed restriction that your developer put on there that you can get relief from him from and the other neighbors, I want to clarify your hardship, without having to get a variance here. You can get relief from private covenants and build there.

Mr. Hickey: I understand that. I also understand that in doing so I will hurt my neighbors.

Mr. Gordon: I have a problem. The planning board approved this. The lots meet the minimums of the town bylaw, okay. We were not privy to any private contracts or covenants. I have a fear that a number of the lots are too small for 3,500 sq. ft. houses. I know each one comes individually, but there is no hardship from the zoning bylaw point of view.

Mr. Salerno: Well, what's the difference in the square footage between 2, 14 and 13 and 12?

Mr. Hickey: It has a lot to do with the setbacks in the front and back because it's the depth of the lot.

Mr. George: Couldn't you use a different design?

Mr. Hickey: I don't know if you have a copy of this?

Mr. George: Yes.

Mr. Hickey: We're trying to build some detail in so that it doesn't look like a... If push comes to shove, that's what will end up happening and it still hurts my neighbors.

Mr. George: But, did you know this before you bought the lot?

Mr. Hickey: No. And, that's my bad. I know that I'm responsible.

Mr. Rodolakis: My recollection, as I was on the planning board that approved this subdivision, is that I believe Mr. Cariglia could have obtained 16 ANR lots. I think he obtained 15 subdivision lots. I think he could do the 16 road front lots as of right. It is an unfortunate situation. I'm not sure whether a new design... It looks like possibly you could redesign the house and fit some more square footage in a different area of it. Are these your final plans?

Mr. Hickey: No. When you look at the house and you look at the other houses, there is some depth, you know. It's not like one plain. That's what we're trying to accomplish here, is to have some architectural detail. The second stipulation is not only that it be 3,500 sq. ft. but that it also have enough architectural detail so that it's consistent with the rest of the neighborhood. There's a house being built there at 5,500 sq. ft. that has a lot of architectural detail.

Mr. Rodolakis: Have you talked to your neighbors?

Mr. Hickey: I have. I have actually sent them a copy of all of this. I spoke with one of my neighbors today who may be here.

Mr. Huie: I'm right here.

Mr. Salerno: Yes, certainly sir. Just identify yourself for the record so that we know who you are.

Mr. Huie: My name is Scott Huie. I'm at 28 Camelot Drive. I'm also the owner of the lot at 16 Park Grove Lane, which is lot number 7 a little bit further down from Mr. and Mrs. Hickey. I would like to speak in favor of the approval of the variance from the standpoint of the lot itself. He's asking for a variance which is actually towards the rear. It fronts on Dean Park, which is part of the city. Since I own number 7, lot number 7, I'm pretty much in the same situation that the width of the lot is good but the depth of the lot is very narrow. When you take it and count the setbacks, it only allows for about 30 ft. for a depth of house that's on there. Trying to fit a house in that neighborhood that's of value so that you don't affect the property values of everybody else, it's hard to build a house of that dept that's there. I can't even get a three-car garage. So, from that standpoint, like I said, with a 50 ft. setback, I'm sure there was a reason it was set up there in the first place from the rear, but from the rear of his lot as well as my lot there was another 100 ft. down to the...

Mr. Salerno: Is your house the one that's under construction?

Mr. Huie: No. It's next door to the one that's being built.

Mr. Salerno: So, is it built?

Mr. Huie: No. It's an empty lot right now. We're looking to build on it but we are in a similar situation as Mr. Hickey.

Mr. Gordon: Would you be coming to us for a variance also on that?

Mr. Huie: Eventually. But, from the standpoint of... I don't understand why variances are set up the way that they are.

Mr. Salerno: Have you already purchased your house?

Mr. Huie: Yes, I have.

Mr. Salerno: I mean the land?

Mr. Huie: Yes, I have.

Mr. Salerno: So, you bought it knowing the size of the lot?

Mr. Huie: I bought it knowing the size of the lot.

Mr. Salerno: And, the restrictive private covenants?

Mr. Huie: Yes, the restrictive private covenants. I'm not that familiar, actually, with how deep the house needed to be until we actually started working with an architect and had some problems actually trying to fit a house on there. I'm going to get a nice long house but it's going to look very unusual.

Mr. Salerno: I mean it's a beautiful street. They did a tremendous job on it. The concerns that we have have been expressed by the board. You folks are purchasing the property with knowledge of restrictive, private covenants that are outside of our control and...

Mr. Huie: I totally understand that...

Mr. Salerno: There's no hardship that's demonstrated.

Mr. Huie: I guess I understand that too.

Mr. Hickey: If need be, we'll build the house within the envelope. You control this. My concern is my neighbors. It really is. I mean I'm not here... My concern is my neighbors. I'm going to build a house that's going to detract from their real estate values.

Mr. Salerno: Well, you've got to get it approved. There's a restriction in your covenant that your building plans are subject to the approval of the developer.

Mr. Hickey: Quite honestly, I'm not all that concerned that he's not going to... He doesn't have a choice. I mean somebody's going to have to build a house there. We can only do what we can do.

Mr. Huie: I agree. As far as the look of the neighborhood and the value of the properties in that neighborhood, I don't want to build something that's going to be unusual looking. It just doesn't fit with the intent that's there.

Mr. Gordon: My concern, Mr. Chairman, is that we allow one variance, we already know that there's going to be a second with no hardship and there are at least two more lots on the other side of the street that are much too narrow to hold a 3,500 sq. ft. house. Now, I would suggest that it's the developer's responsibility and the caveat emptor I guess is what I want to say. I mean, let the buyer beware. I don't see how we can straighten out this matter without redesigning the whole project. As you know, in this neighborhood we've had problems with large houses on small lots. Do we want to continue that?

Mr. Huie: I would argue that on the other side of the street you have neighbors that are directly behind you. On the side of the street that we are on...

Mr. Gordon: Oh, I understand that but it doesn't make it. If you take each lot as an isolated lot it doesn't matter if you have a park behind you or a house behind you, you've got the same situation.

Mr. Hickey: Well, if the law exists to protect your neighbors and your neighbor happens to be Dean Park and we are not substantially deviating from the restriction...

Mr. Huie: Who are we hurting there? I don't understand it.

Mr. Gordon: Well, that's...

Mr. Rodolakis: But there's a standard there.

Mr. Rosen: You also need to exorcise a hardship.

Mr. Gordon: There is no hardship that I can see.

Mr. Hickey: Is this funny!

Mr. Salerno: No, it's not funny at all.

Mr. Gordon: No. I feel very badly for you but I don't see where there's a hardship.

Mr. Hickey: I understand, I understand.

Mr. George: I think maybe you just have to try to work something out with the covenants that were restricted upon you when you bought the property and see if he can give you some relief from his covenants.

Mr. Hickey: Yea, yea. I'll do that. I don't have a problem with that.

Mr. Gordon: Can I suggest that we give the applicant the opportunity to withdraw as opposed to voting on this? That way he can go back and talk to Mr. Cole and Mr. Cariglia. There may be some other situation that is palatable where as if this went against him he has a two year period where he can't come back before anybody.

Mr. Salerno: Are you aware of that? You might want to get some legal advice too.

Mr. Hickey: Yes.

Mr. Gordon: If we give you the leave to withdraw you could come back in a couple of months. But, if we vote against you, you can't come back for two years.

Mr. Hickey: For the same thing or for anything at all?

Mr. Gordon: For a variance on that piece of property, I guess.

Mr. Alarie: No. It would have to be the same request.

Mr. Gordon: Oh.

Mr. Hickey: So, there's nothing gained by having you turn it down? Or, there's nothing lost by having you turn it down?

Mr. Salerno: Well, this proposal, as presented, would be on ice for two years. Again, just so that we're clear, the requirements in seeking relief from the bylaws are that you have to demonstrate a hardship or some other rationale that's going to support it. What we're looking at is something that was privately created. Now it's a situation where you don't...

Mr. Hickey: I hear you. I hear you loud and clear.

Mr. Salerno: People around you had bigger lots; bigger homes and you want to stay in conformance with what's been done in that neighborhood. That's very admirable that you want to do that, not to detract from their property. You go around and you get on the other side and people built in their backyards and told us they were living there, their houses are for sale, they have no intentions of occupying them. We've been down this road a few times.

Mr. Hickey: Let me ask you something. Does the fact that I'm detracting from their values qualify as a hardship?

Mr. Salerno: Well, there's nobody here to suggest that that's what you're doing. There are no neighbors here claiming that you're going to detract from their value either. It's kind of a subjective thing. We're concerned about creating hardships that don't exist just by virtue of the fact that your development's got restrictive covenants on it.

Mr. Rosen: If the developer created the hardship...

Mr. Rodolakis: I think it was unintended.

Mr. Hickey: So, he's got people that are building large homes and then as a result of some of these lots...

Mr. Salerno: But, none of them have come in for variances to do that.

Mr. George: Yes.

Mr. Hickey: Well, only three of the houses have been built and they are all on the larger lots. The people that came in first bought the larger lots.

Mr. Salerno: There are four houses down there right now, right?

Mr. Hickey: One, three, nine and...

Mr. Gordon: There's another one being built.

Mr. Salerno: There are at least four.

Mr. Hickey: There are four. There's a fifth going up. They are all on the largest lots.

Mr. Salerno: House number five is under construction. How many square feet is his lot?

Mr. Rodolakis: Twenty-two five.

Mr. Gordon: I don't have a copy of it.

Mr. Rodolakis: How many square feet is your lot?

Mr. Hickey: Lot 2, 23,046.

Mr. Rodolakis: I remember, we raised this issue on High Street and North Street too.

Mr. Hickey: I appreciate it. I thought that given that I abutted Dean Park and that we were asking for a slight variance I didn't view this as being a massive detraction from what the setbacks were and that the hardship was on my neighbors and that you might consider it.

Mr. Salerno: Well, you have the option, Mr. Hickey, if you'd like, because we don't think that you were fully aware of some of these issues coming in here tonight. Mr. Gordon has made a motion to allow you to withdraw so that you can withdraw without any prejudice on this. You might want to speak with somebody on that.

Mr. Hickey: Yes, I think I will.

Mr. Salerno: Then you can always re-file your original. You haven't had any prejudice attached to you.

Mr. Hickey: Okay.

Mr. Salerno: You can modify what it is that you want to do. You can take tonight as more of a learning experience.

Mr. Hickey: Thanks.

Mr. Salerno: Okay.

Mr. Hickey: I appreciate this.

Mr. Rodolakis: There may be a basis for a variance.

Mr. Hickey: What's that?

Mr. Rosen: You may have a basis for a variance.

Mr. Hickey: If I can prove there's a hardship.

Mr. Rodolakis: Like what Mr. Salerno said, you might want to talk to an attorney.

Mr. Hickey: Thank you.

Mr. Salerno: Okay, so are you going to vote?

Mr. Gordon: I vote to allow Mr. Hickey to withdraw without prejudice.

Mr. Rosen: Second.

Mr. Salerno: So allowed.

Good luck sir. Good luck. I want you to know that we're trying to address everybody's issues.

Mr. Hickey: Sure.

Mr. Salerno: There's nothing negative towards you.

Mr. Hickey: I'm just happy to be here.

Mr. Salerno: Great. Well, come back then.

PUBLIC HEARING: Goodall and Sons Tractor Company, Inc., 697 Hartford Turnpike, Shrewsbury, MA.

PURPOSE: To hear the appeal of Goodall and Sons Tractor Company, Inc., 683 Hartford Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 697 Hartford Tpke. for the sale and repair of agricultural, construction and related equipment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 42 as Plots 23 and 23-1.

Withdrawn prior to the hearing.

PUBLIC HEARING: Barrie Shore, 20 & 88 Boston Turnpike, Shrewsbury, MA.

PURPOSE: To hear the appeal of Barrie Shore, 245 Waterman Street, Suite 406, Providence, RI, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-3, and a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the replacement of signs located upon White City West and White City East, 20 and 88 Boston Tpke., respectively, maintaining the sign area and heights of said signs and to allow the increase in height of one sign to

50 ft. The subject premises is described on the Shrewsbury Assessor's Tax Plate 31 as Plots 86 and 243.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Ronald I Rosen, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 14, 2005 and February 21, 2005.

Mr. Salerno: Please identify yourself for the record and introduce your clients.

Mr. Shore: He's not a lawyer. My name is Barrie Shore. This is Jay Lord and Rick Compagna who's from Barlo Signs. Jay is a civil engineer.

Mr. Lord: I'll hand these out first. These are pictures of what we're doing

(Mr. Lord presented pictures to the board members)

The reason we are here tonight is because the Massachusetts Department of Highways is doing a reconstruction here of Route 9 and Quinsigamond Avenue. In doing that, they are widening this road that affects White City and White City East. In doing that, they are taking the existing White City sign and they are taking two of the White City East signs. They are going to have to be replaced.

In talking with D.O.T., both of these are in the new right-of-way. These are coming down. What we looked at for an overall process is we're trying to relocate this one, which will have a different shape but the same size and same height, back 45 ft. to here. What we'd like to do is rebuild the existing sign, which says "Michael's" on it that is in front of you, and take these two and replace it with one sign here. That means, for the White City property, we're looking for a special permit to relocate that sign. For White City East, we're looking for a special permit and a variance to increase the height by 10 ft. over the existing sign in order to create the space on one sign that would replace the signage on the two signs that are coming down.

Mr. George: On these proposed signs, are they going to be internally lit?

Mr. Lord: All of these signs are internally lit, yes they are.

Mr. Gordon: It's my understanding that the White City Sign is now 60 ft.?

Mr. Lord: The White City sign is, I think, just a whisper under 60 ft., yes. For all practical purposes, it's 60 ft.

Mr. Gordon: And you're proposing to replace it with one at 56 ft.?

Mr. Lord: It's either 56 or 55 ft.

Mr. Gordon: 56 according to the drawing. You're moving the White City sign now next to Strawberries?

Mr. Lord: That is correct. Right now, it's in the state's right-of-way. Even with the taking, it is almost entirely in the right-of-way. We're moving it back to this landscape island back here, which is going to be 45 ft. off of the new right-of-way for the D.O.T.

Mr. Gordon: Now, at White City, what percentage of your available signage have you used and how much do you have left?

Mr. Lord: We are doing a study on White City right now to do the entire project. What we're trying to do here is just to relocate the pylon itself, tit for tat.

Mr. Gordon: So, in other words, there will be no improvement in the sign? It will just be the existing sign?

Mr. Lord: No, no, no. We're taking the same square footage and making a new sign and moving it 45 ft. off of the right-of-way.

Mr. Gordon: And reducing it 5 ft. in height?

Mr. Lord: And reducing it 5 ft. in height, that's correct.

Mr. Salerno: Well, what you're showing only has one empty slot on it anyways for White City, correct?

Mr. Lord: That's true. We're not proposing to increase any signage here. We're taking the existing signage and we're putting it on a brand new sign back away from the state road.

Mr. Gordon: What if your study shows that you don't have adequate signage for the square feet or you exceed the signage for the square feet that you have?

Mr. Alarie: That would be part of the nonconformance if it did exceed it. I know that they don't, but if they did, they're replacing it in-kind, just relocating it. The height is the other issue. The overall height, the overall size and the height of it are the issues that are before the board.

Mr. Gordon: On White City? I see it being the issue on White City East, but why is it the issue on White City?

Mr. Alarie: Because you have one large sign that's over the 200 sq. ft. in aggregate area on some of those signs. Plus, it's located much less than the minimum front yard setback, which is now 20 ft. from the front lot line. Plus, you have the height issue, 60 ft. versus 35 ft. They're not increasing the overall square footage of that sign. So, that facet of the nonconformance remains unchanged and they are lowering it by 4 ft.

Mr. Gordon: Just a hypothetical question, what would happen if this site, Mr. Shore, was fortunate enough to say add three new stores? Could their signs be put on the pylon or not?

Mr. Alarie: If it's nonconforming, not without coming back to this board or, if they have adequate sign capacity, you could conceivably put up additional pylon signs, a new sign or additional pylon signs. As long as they conform to the setback, the size and the height requirements, that would be a direct building permit issue.

Mr. Gordon: That would go to you?

Mr. Alarie: Correct.

Mr. Gordon: Okay.

Mr. Salerno: They can reconfigure the signs that are there anyways.

Mr. Alarie: It would be a question of either relocating this sign or putting a number of individual signs along that frontage. I think that's what you'd have to weigh. What would be the benefit of having multiple pylon signs?

Mr. Gordon: I don't see any benefit. I'm just asking you, if we're exceeding what's allowed with the new signage and what's on the other existing structures on the property. But, if we add structures, what occurs?

Mr. Shore: Can I answer that question? In the first place, on these signs, what we've tried to do is to upgrade White City and White City East. If you notice, we have what you call channel lettered signs which are not in a box. That means that they utilize less sign space. Also, it looks a lot better. So, this is what we've done.

Number two, not all stores require new representation on the pylon sign. Take Bugaboo's, they have their own sign on their building and that's all.

Mr. Gordon: I noticed that.

Mr. Shore: We have looked into this very carefully. In certain cases, for example White City East, we have special permits awarded many years ago that allow us another 200 sq. ft. and so on. We never even utilized all of these things. So, we're well within the sign limits that were authorized. Basically, the State of Massachusetts is taking away one big pylon sign at White City, taking away two at White City East and pretty much immobilizing the third one inside White City East. We intend to replace the three at White City East with one attractive, nice sign which is a twin sign to the new one at White City to greatly upgrade the property and the neighborhood.

Shrewsbury is trying very hard, in conjunction with Massachusetts, to upgrade this general area. This thing is going to cost us a fortune, frankly, but we decided that this is the time to do it.

Mr. Gordon: So, these pylon signs are going to be brand new signs?

Mr. Shore: Brand new, yes. These things that you have here were not built at the same time.

Mr. Gordon: Oh, I understand that. I've commented to you on those many times.

Mr. Shore: And I accepted your comments. This mess is coming down.

Mr. Gordon: Okay.

Mr. Shore: Something attractive and new is going up where the signs were and the new signs won't be out half the time like they are right now. Over here where you have three different signs, we're going to replace all of that with one sign which will be a twin sign to this. It will be logical and attractive. As I say, the cost far exceeds what we originally thought it would be.

Mr. Gordon: Okay. Now, I'll bring it up again, these will be brand new signs and brand new pylons?

Mr. Shore: Absolutely.

Mr. Gordon: We won't have the Boston Globe visiting us again.

Mr. Shore: The Boston Globe can stay in Boston as far as I'm concerned.

Mr. Gordon: Okay, I like that, but you're not going to reuse any of these signs?

Mr. Shore: These things are very new and very expensive. As a matter of fact, Rick is here from Barlo Signs, which is the company that is going to manufacture them. If he gives us used signs, he's going to be in real trouble.

Mr. Gordon: Okay, so these are going to be on new pylons with new signs that will slide in with the channels?

Mr. Shore: State of the art, correct.

Mr. Gordon: What is the total number that you've already agreed upon or not?

Mr. Shore: What do you mean by "number?"

Mr. Gordon: The number of slides. When I saw the full thing, it shows about fourteen plus six or so plus six large ones and a bunch of small ones and the same thing on the other one which we don't have the full thing yet?

Mr. Shore: There may be some variables. For example, we have one vacancy at White City in the Friendly's Ice Cream Building and then we're putting up, hopefully, another

very small addition to the Strawberry's place. That may be a couple of signs there but it's well within what's allowed.

Mr. Lord: To answer your question, yes. The size of these signs was well thought out and who was going to get them well in advance. So, what you see size-wise, is what you're going to get.

Mr. Salerno: All right. What you've got here represents what they're getting. So, Michael's, IParty, Casual Male, etc., are they're getting the larger billing?

Mr. Shore: The larger stores get the larger signs.

Mr. Salerno: It's not going to be changed?

Mr. Lord: It's not going to be changed.

Mr. Salerno: I'm just kind of curious, is Honey Farms "Huney?"

Mr. Gordon: It's "Honey."

Mr. Compagna: I take responsibility for that.

Mr. Salerno: All right, so there's no spell check on these signs?

Mr. Compagna: We'll clean that up, I promise.

Mr. Salerno: I didn't know if we had a new tenant coming in there.

Mr. Compagna: Not that we're aware of.

Mr. George: What is the structure made of?

Mr. Compagna: We will be using new steel for the poles. The pole covers and the cap will be finished with a text-coat stucco finish. The letters at the top of both structures will be neon channel letters. We will be using flex faces with metal halide lamps so that you're going to have a consistent lighting throughout the structure. We're not going to be using different types of lighting, we're using one consistent light throughout the whole sign. It will be a show piece.

Mr. Salerno: Can you tell us something about their storm or weather resistance? Often times you see a sign that's damaged and it stays damaged for a long time. What are these going to be like?

Mr. Compagna: What we'll be using for the face materials is called "flex face." It's a durable, weather resistant type of product. What we'll be doing is using 3-M vinyl on the faces for the names and the logos of the tenants.

Mr. Gordon: Will it be the same as the one you put up today?

Mr. Compagna: Which one was that?

Mr. Gordon: The one that you put up today. On White City, you put up a new Shaw's sign with an Osco Drug on it or is that going to come down?

Mr. Shore: That was not done by us. That was done by Shaw's.

Mr. Gordon: Okay. So, that's going to come down?

Mr. Compagna: Right. That was probably just a temporary fix.

Mr. Gordon: It doesn't look like a temporary fix, but I'll take your word for it.

Mr. Compagna: Okay. If you're familiar with the signs, you'll agree that, over the years, there probably hasn't been a lot of investment in the sign knowing what was about to take place. Consequently, what's going to happen here is it's going to be a complete upgrade.

Mr. Salerno: What about the sign removal? Tell us about that.

Mr. Compagna: Well, at this particular point, Mr. Shore maybe can step in here. We believe that the state has taken the property. The decision on who will be taking the old signs down still hasn't been clarified.

Mr. Salerno: No, time-wise? Are the old ones coming down and the new ones going up? How much of an overlap?

Mr. Shore: Excuse me. We had the joy of meeting with the highway department a couple of weeks ago. I asked that exact question. It's very important to us when running a shopping center that we coordinate this because, frankly, these big signs are the lifeline of a shopping center. If you didn't have these signs, the tenants would leave. So, the coordination is very important. The state highway department, through its relocation division, notified me that they were going to have a meeting on it and that they thought that they'd begin work on March 1st. I said "What do you mean by beginning work on March 1st?" Well, they said that they were going to begin by taking the land, digging up the pavement and the signs being taken down by another. I don't know what "another" means. So, anyway, I said "Look, we're going to go before the Zoning Board of Appeals on March 1st. If they vote to allow the sign, if they grant the permit, then they have to notify, I understand, the abutting landowners. It takes 20 days after which we could actually sign this expensive contract. Then, it takes about 2 ½ months to 3 months to actually manufacture the signs. The last thing we want you to do is take down those signs and have that vacancy for 3 months. Would you please take that into consideration as you do your work?" They've already awarded a contract. I requested that they do other things first in this overall Route 9 project and have White City toward the end so that there would be as little elapse as possible. They haven't answered the question yet. Presumably they will in a couple of weeks.

Mr. Gordon: If they answered unfavorably to you and they wanted to tear the signs down right now, what would happen?

Mr. Shore: We'll do exactly as much as we can, but I cannot dominate the State of Massachusetts.

Mr. Gordon: Yes, I know, but if your signs came down, you're not going to move that sign back temporarily?

Mr. Shore: Oh, no. You can't because these signs are enormous.

Mr. Gordon: Well, you know, I've heard an "I can't" a lot in my days that have become "I will."

Mr. Shore: Mel, can I explain one thing to you? At White City, that sign is about 60 ft. in height above ground. Underground, it goes down 15 ft. to support it. Those 15 ft. are encased in concrete. You cannot physically move the sign.

Mr. Gordon: Okay. So, you would have to put something up temporarily if they tore it down or you would put nothing up?

Mr. Shore: I think we would probably put nothing up.

Mr. Gordon: Okay.

Mr. Shore: So, regardless of who does what, there will be a little lapse. It's unavoidable. We're trying to get the state to work with us as much as possible. They haven't even responded to that yet.

Mr. Salerno: Was this part of an eminent domain taking?

Mr. Shore: Yes.

Mr. Salerno: Didn't you negotiate the price with them with the land and about the signs?

Mr. Shore: No, but I tried.

Mr. Rodolakis: So, you did?

Mr. Salerno: There wasn't a clause in those negotiations about this issue?

Mr. Shore: No. We've tried very, very hard. I don't know if you've dealt with the highway department, but we have and, off the record, found it very difficult.

Mr. Rodolakis: You're on the record.

Mr. Salerno: You're on the record.

Mr. Shore: It's a public meeting. Then let me say this to you, we have attempted but not succeeded to negotiate prices with them with respect both to the land and the pylons. At this point, nothing has been resolved. Thanks for the correction.

Mr. Gordon: I have two more questions, if I may. I'm just curious about this. It's not going to affect my decision. Michael's sign is going to be 50 ft. This one is going to be 56 ft. Why are they not both going to be the same height?

Mr. Lord: The reason that they are not is because White City East is not as large as White City and there aren't as many signs required on White City so there is no need to go the extra height. We're just doing tit for tat signs.

Mr. Gordon: Okay. If our decision said that there could be no changes to the pylons without coming back to the Zoning Board of Appeals, would that be appropriate?

Mr. Lord: Are you talking individual signs?

Mr. Gordon: No. I'm talking pylons. If you added signs, square footage, then yes, that would require you to come back. But, say if you changed one name with another, I don't think that would force you to come back.

Mr. Alarie: That would be the question. You always have tenant changes there.

Mr. Gordon: We don't even bother with tenant changes.

Mr. Alarie: Are you talking about the configuration of the sign?

Mr. Gordon: Yes. Let me tell you my fear. I look at modern signs when they start. They do look very nice. I think they are attractive and they do bring people in. But, let's just say that somebody new comes in about the size of one of your anchor tenants and says "I want my sign now to be outside the area of that?"

Mr. Shore: May I answer that question?

Mr. Gordon: Both of you can answer it. I don't care who answers it.

Mr. Shore: Frankly, we control it; not the tenants. So, as far as we're concerned, this has been a very, very carefully thought out and engineered thing. We're not going to allow one tenant to come along and say "I'm sorry, I want three times the sign space that you've given me."

Mr. Gordon: Then you're not going to go outside the pylons?

Mr. Shore: Oh, no.

Mr. Gordon: You know my fears.

Mr. Lord: I know your fears.

Mr. Shore: What we're trying to avoid is what's there now because that sign was changed over a period of about 45 years. It was constantly changed. We're trying to make this a well organized, attractive thing.

Mr. George: Do you have any samples of what the material for the structure that supports the sign is like?

Mr. Compagna: I don't have any with me. I do not.

Mr. Gordon: Will they be round or square?

Mr. Compagna: Well, the steel beneath it will be I-beam construction.

Mr. Gordon: How about the steel above ground?

Mr. Compagna: It will have aluminum casing and will be text coated.

Mr. Gordon: But, it will be rectangular as opposed to circular?

Mr. Compagna: Right, and there'll be pole covers. The pole covers would be the aluminum covering the structure and then text coated on top of that.

Mr. Gordon: We could restrict it to the square footage that is shown and, if that square footage increased, they would have to come back for a special permit?

Mr. Alarie: Sure. What you would normally say is that the sign shall be configured, the basic structure, substantially in accordance with that rendering. What you see is virtually what would get. The tenant faces could change over time.

Mr. Gordon: I like the fact that, on another project in town when they added signs on the bottom, they had to come back for a special permit and we could look at it again. If that's going to occur here, I would like to be able to do it. If it just happens that you're going to slide in another sign or replace one sign with another, I don't see that as something that we should get involved in.

Mr. Alarie: If you grant a special permit, basically what they would be permitted is to erect that sign. They could diminish it in size, but in terms of expanding it, they would have to come back before the board.

Mr. Salerno: But you don't want them to come back if they want to change people there? They would have it shaped like this with that number of slots?

Mr. Gordon: No, no. Underneath, at the bottom of the sign, let's say that they want to add four more slots that aren't there now.

Mr. Salerno: Well, it's 12 ft. from the ground up.

Mr. Lord: It's 10 ft.

Mr. Rodolakis: I have a comment that might be moot relative to that. I think that the existing signs and the proposed signs are ugly in this drawing. To me, I would think that you would want some sort of a wall or landscaping or some sort of stone veneer that would surround the base of the pylons.

Mr. Gordon: I think he said that he was going to do that, Steve, in the beginning. Didn't you say that there was going to be greenery around the signs?

Mr. Shore: I didn't say anything.

Mr. Lord: This one here is going to have a landscape island. This one here is going to remain exactly where it is.

Mr. Gordon: But it's going to be a new pylon sign?

Mr. Lord: That is correct.

Mr. Gordon: Okay.

Mr. Rodolakis: There's nothing proposed in terms plantings or landscaping beneath it?

Mr. Lord: There's nothing proposed. This is going to stay in the exact same location of the existing Michael's sign that is right here.

Mr. Rodolakis: Does that require a variance?

Mr. Gordon: Yes, because they want to go up 15 ft.

Mr. Rodolakis: Okay.

Mr. Shore: What we want to do is get rid of the Michael's sign. We want one sign instead of three horrible signs in White City East. The purpose of this is to upgrade the area. We have to do something so we might as well do it right. At White City, that huge monstrous sign, the lights are on, the lights are off and it's falling apart. We're going to replace it with something brand new, very attractive and try to inter-relate the two big signs with each other. Bear in mind that this is within the confines of the state taking away the front of the shopping center. So, we're doing what we can to make it attractive and useful.

Mr. Rodolakis: So, the state's compensating you?

Mr. Shore: Pardon me?

Mr. Rodolakis: And the state's compensating you.

Mr. Shore: We haven't agreed on any amount as of yet.

Mr. Rodolakis: You have remedy if they don't.

Mr. Alarie: If you look at the photo on the plan that shows the White City East area looking at it in an eastbound direction, you can see the confluence of all of those different structures. It really is overbearing. The one sign will certainly improve that image.

Mr. Gordon: So, basically on that parcel on White City East, there will be two signs left.

Mr. Shore: No. May I clarify something? There will also be the Dunkin Donuts sign.

Mr. Gordon: The Dunkin Donuts sign still remains?

Mr. Shore: It still remains.

Mr. Gordon: Yes, but that's way off to the side.

Mr. Shore: That's right.

Mr. Gordon: Is that in the right-of-way though?

Mr. Shore: No, no. That's going to be left alone.

Mr. Gordon: Okay.

Mr. Shore: The taking will not be exactly parallel with Route 9. It's sort of on an angle.

Mr. Gordon: I know.

Mr. Shore: What is going to come down, Mel, is the Liberty Travel sign, the present White City East sign and also the Michael's sign. All three will come down and be replaced with one more attractive, up to date sign.

Mr. Gordon: At the location where the Michael's sign is now?

Mr. Shore: Not exactly, but close to it, yes.

Mr. Alarie: In answer to your question, the only two pylons on that site along Route 9 would be the new sign and the Dunkin Donuts sign?

Mr. Lord: That is correct.

Mr. Gordon: Yes, that's what I thought.

Mr. George: When you were kicking around these signs, is this the only option you came up with or did you have other options that you were considering?

Mr. Shore: The design?

Mr. George: Yes.

Mr. Shore: Well, what we have to do in order to run a shopping center is have representation on Route 9 for the tenants. That's why they locate there. Other than that, they won't. So, we thought that it would be a lot better to have for each shopping center one big attractive pylon sign rather than a mishmash of all kinds of things. So, this is a much more expensive way of doing things than having an array of different signs.

Mr. George: I understand that, but is this the only option of materials to use?

Mr. Shore: Well no. We had a number of sign companies and we had a number of different options, but we came to the conclusion that these are the most durable, although not the least expensive, signs. This is a little more expensive of the options, but it's very durable, very well done and these signs will not fall apart constantly. Right now, if you go past White City, you'll see half of the signs off. It's embarrassing. We spent almost \$3,000 three months ago repairing them. But, if you fix one thing, another thing falls apart. In addition to which, this was built with different types of signage over many, many years. Now this is consistent, it's new, it's guaranteed and is according to the present electrical code.

Mr. Gordon: What about the I-Hop sign?

Mr. Shore: That remains alone.

Mr. Gordon: The sign that they have remains? It's on the building or is it in front of their building?

Mr. Shore: No. It's a free standing sign. It's theirs; they put it up.

Mr. Alarie: It's more to the South Quinsigamond Avenue side of the property.

Mr. Gordon: Right.

Mr. Lord: That's correct.

Mr. Gordon: Isn't that being taken?

Mr. Lord: No.

Mr. Shore: No.

Mr. Gordon: Oh, they're missing that? I know it's an unusual reconfiguration.

Mr. Shore: What happened there was that, on that corner when they widened that, we gave that land to the Town of Shrewsbury for free. That sign was left there.

Mr. Gordon: Okay.

Mr. Salerno: Is there anyone in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On March 1, 2005, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Barrie Shore, 245 Waterman Street, Suite 406, Providence, RI, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-3, and a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the replacement of signs located upon White City West and White City East, 20 and 88 Boston Tpke., respectively, maintaining the sign area and heights of said signs and to allow the increase in height of one sign to 50 ft.

The appellant owns and manages the retail shopping complexes known as White City and White City East which primarily front upon the eastbound lane of Boston Tpke. commencing at the Shrewsbury/Worcester boundary line. They also have secondary frontage along South Quinsigamond Ave., which bisects these two plazas. The Commonwealth of Massachusetts, through the MassHighway Department is improving this intersection through roadway widenings and re-signalization of the traffic control lights. A significant portion of the widening will take place along each of the subject site's Route 9 frontage. The improvements will involve the removal of off-street parking spaces adjacent to the existing roadway as well as the removal of three pylon signs, one on White City and two on White City East. All three of these signs are nonconforming in terms of their size, location and height or a combination of thereof. The appellant proposes to install, virtually in kind, a new sign on the White City site that would maintain its existing size, reduce its height from 60 ft. to 56 ft. and position it in compliance with the minimum front yard setback from Route 9. On the White City East site, a total of three existing signs would be removed and, in their place, one new sign would be installed incorporating all of the existing signs presently situated upon these structures that would be 50 ft. in height and would also comply with the aforementioned front yard setback.

Upon review of this proposal, the board found that MassHighway takings have imposed a substantial hardship to Mr. Shore and that the granting of both the variance and the special permits requested would advance the purposes of the Zoning Bylaw. It was their opinion that modernization of the subject signs, which are quite old, of haphazard configuration and are in poor condition, would significantly improve the appearance of these retail centers and would mitigate several of their nonconforming features. They concluded that the relocation of the White City sign, which presently extends into the Route 9 right-of-way to a conforming setback and the consolidation of the multiple signs on the White City East side to one sign would promote, rather than derogate, from the intent of the bylaw and, therefore, unanimously voted to grant the appeal subject to the following stipulations:

1. The size, configuration and design of the new signs shall be substantially in accordance with the plans presented to the board.

2. A decorative planter, which shall be a minimum of 3 ft. in height, shall be installed below the new White City East Sign. The planter shall be constructed of decorative stone, brick, or similar materials, not including plain or unfaced concrete blocks.
3. Upon the installation of the two new signs, no other pylon signs shall be erected along the Rout 9 frontage of either of the subject sites.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Mr. Rosen | Yes |
| Mr. Rodolakis | Yes |